

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nora Chanko	Team: APU	CCRB Case #: 201700825	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/31/2017 10:00 AM	Location of Incident: § 87(2)(b)	Precinct: 105	18 Mo. SOL 7/31/2018	EO SOL 7/31/2018	
Date/Time CV Reported Wed, 02/01/2017 1:49 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/01/2017 1:49 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Maryann Lodico	15140	943389	105 PCT
2. SGT Michael Sykora	04782	926188	INT CIS
3. POM Joseph Manzella	04458	949251	105 PCT
4. POM Paul Kearon	26316	948363	105 PCT
5. An officer			105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT James Reilly	4143	937350	105 PCT
2. POM Matthew Levy	24321	943481	105 PCT
3. POM Anthony Crescimanno	01011	948824	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer threatened to seize § 87(2)(b) s property.	§ 87(2)(b)
B. An officer	Abuse: An officer threatened to damage § 87(2)(b) s property.	§ 87(2)(b)
C. POM Joseph Manzella	Force: Police Officer Joseph Manzella pointed his gun at § 87(2)(b)	§ 87(2)(b)
D. POM Paul Kearon	Force: Police Officer Paul Kearon pointed his gun at § 87(2)(b)	§ 87(2)(b)
E. An officer	Force: An officer pointed his gun at § 87(2)(b)	§ 87(2)(b)
F. POM Paul Kearon	Discourtesy: Police Officer Paul Kearon spoke discourteously to § 87(2)(b)	§ 87(2)(b)
G. POM Paul Kearon	Abuse: Police Officer Paul Kearon threatened § 87(2)(b) with the use of force.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.POM Paul Kearon	Abuse: Police Officer Paul Kearon threatened to damage § 87(2)(b) s property.	
I.SGT Michael Sykora	Discourtesy: Sergeant Michael Sykora spoke discourteously to § 87(2)(b)	
J.SGT Michael Sykora	Abuse: Sergeant Michael Sykora threatened to arrest § 87(2)(b)	
K.POF Maryann Lodico	Force: Police Officer Maryann Lodico used physical force against § 87(2)(b)	
L.POF Maryann Lodico	Abuse: Police Officer Maryann Lodico entered and searched § 87(2)(b) in Queens.	
M.SGT Michael Sykora	Abuse: Sergeant Michael Sykora entered and searched § 87(2)(b) in Queens.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On February 1, 2017, § 87(2)(b) filed this complaint with the CCRB via phone.

At approximately 10:00 a.m. on January 31, 2017, § 87(2)(b) was inside her home, located at § 87(2)(b) in Queens with her brother, § 87(2)(b) her boyfriend, § 87(2)(b) her sister-in-law, § 87(2)(b) and § 87(2)(b) § 87(2)(b), as well as § 87(2)(b)'s two dogs. Two Con Edison employees, § 87(2)(b) and § 87(2)(b) knocked on their door and walked around the back of the house, and shortly thereafter, Sgt. Michael Sykora, Sgt. James Reilly, PO Maryann Lodico, PO Anthony Crescimanno, PO Matthew Levy, PO Joseph Manzella, and PO Paul Kearon, all of the 105th Precinct, arrived. An officer knocked on the door, threatened to remove the dogs, and threatened to shoot them if they bit the officers (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). No one answered the door, and § 87(2)(b) called § 87(2)(b)'s mother, who was in the neighborhood with § 87(2)(b) § 87(2)(b)'s brother. § 87(2)(b) and § 87(2)(b) drove to § 87(2)(b) and when they arrived, PO Manzella, PO Kearon, and an officer allegedly pointed their weapons at § 87(2)(b) § 87(2)(b) (**Allegations C, D, and E: Force**, § 87(2)(g)). PO Kearon used profanity towards § 87(2)(b) § 87(2)(b) and threatened to damage his vehicle and use force against him if he did not get out of the vehicle (**Allegation F: Discourtesy**, § 87(2)(g)). **Allegations G and H: Abuse of Authority**, § 87(2)(g) § 87(2)(b) got out of the vehicle and was placed under arrest for § 87(2)(b) § 87(2)(b).

§ 87(2)(b) (Board Review 18). Sgt. Sykora spoke discourteously towards § 87(2)(b) § 87(2)(b) (**Allegation I: Discourtesy**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) exited the house. § 87(2)(b) was placed under arrest for § 87(2)(b) § 87(2)(b).

(Board Review 19). § 87(2)(b) was placed under arrest for § 87(2)(b) § 87(2)(b) (Board Review 17). Sgt. Sykora threatened to arrest § 87(2)(b) (**Allegation J: Abuse of Authority**, § 87(2)(g)). As § 87(2)(b) walked up the steps to the house, PO Lodico allegedly pulled on her arm, causing her to trip down the steps (**Allegation K: Force**, § 87(2)(g)). PO Lodico, PO Crescimanno, § 87(2)(b) and § 87(2)(b) entered the house (**Allegations L and M: Abuse of Authority**, § 87(2)(g)). The electricity was shut off, the officers exited the house, and left the scene. § 87(2)(b) § 87(4-b), § 87(2)(g).

No video footage was obtained for this incident.

Findings and Recommendations

Allegation A – Abuse of Authority: An officer threatened to seize § 87(2)(b)'s property.

Allegation B – Abuse of Authority: An officer threatened to damage § 87(2)(b)'s property.

§ 87(2)(b) stated that she was in her house when she heard an officer outside her home say, “We’re gonna call the ASPCA and get your dogs removed,” and “If we approach and your dogs bite

me I'm going to shoot them." When she later exited the house, an officer threatened to shoot the dogs if they bit him. § 87(2)(b) described this officer as a Hispanic male, possibly Mexican, in his early 40s, standing 5'6" to 5'7" tall, with light skin and black hair, a little "fat," and wearing a hooded sweatshirt and jeans. She recognized his voice as the officer who made the threats regarding her dogs earlier.

§ 87(2)(b) stated that he and § 87(2)(b) had been sent to the location to meet with the police because according to their system there was no meter, but the house had electricity and was not being billed for it. § 87(2)(b)'s supervisor told him it was more than likely a theft of service. No one was able to gain access to the house, and officers began to leave. § 87(2)(b) did not hear the officers make any threats to remove the dogs and stated that the officers did not make threats to shoot the dogs. § 87(2)(g)

§ 87(2)(b) stated that he did not know why the police were there. He also stated that he was near his car during this portion of the incident and did not hear an officer make the alleged statements.

None of the other civilians witnessed this portion of the incident and no event was generated regarding this portion of the incident (07 Board Review).

PO Lodico stated that she had been investigating 311 complaints of a homeless encampment at the house between January 24, 2016, and December 29, 2016. The house's original owner died, and after being owned by the bank, it was bought by a contracting company in October 2016. The owners wanted the occupants to vacate and sent a letter on January 5, 2017, requesting that the occupants do so. In an effort to determine who lived there, PO Lodico contacted Con Edison and learned that the meter had been removed and the house had no gas. § 87(2)(b), a Con Edison employee, wanted to check to see how the occupants were getting electricity. § 87(2)(b) requested a police presence to escort his personnel in case they needed to enter the home, and they arranged a meeting for January 31, 2017. After knocking for several minutes and being unable to gain access to the location, PO Lodico, PO Manzella, and PO Kearon began to leave in their vehicle.

According to officer testimony, PO Lodico, PO Kearon, PO Manzella, Sgt. Sykora, PO Crescimanno, Sgt. Reilly, and PO Levy arrived on scene before anyone exited the house, and none of them made the alleged threats or heard another officer do so. None of these officers matched § 87(2)(b)'s description of the subject officer or any of the other officers who initially arrived on scene. As no Event was generated until later in the incident, Event documents could not confirm which officers were present at the time of the allegation.

§ 87(2)(g)

Allegation C – Force: Police Officer Joseph Manzella pointed his gun at § 87(2)(b)

Allegation D – Force: Police Officer Paul Kearon pointed his gun at § 87(2)(b)

Allegation E – Force: An officer pointed his gun at § 87(2)(b)

§ 87(2)(b) stated that he and § 87(2)(b) drove to § 87(2)(b), where he and § 87(2)(b) were renting rooms, after receiving a call from § 87(2)(b) that officers were at the house. Upon arriving, § 87(2)(b) observed a Con Edison vehicle, two black unmarked cars, and a white unmarked Nissan. PO Manzella was in one of the black unmarked vehicles, and four to five other officers were standing around the cars. § 87(2)(b) made a U-turn in an attempt to park behind the Con Edison vehicle, which was in front of the house. As § 87(2)(b) did this, PO Manzella activated the lights and sirens and, along with the other police vehicles, blocked him in. PO Manzella, PO Kearon, and an unidentified male officer approached § 87(2)(b)'s vehicle and pointed their weapons at § 87(2)(b) and § 87(2)(b) and told him to exit the car. In his phone statement, § 87(2)(b) stated that at least seven officers approached his car, knocked on the window, and told him to exit the car. He did not say that officers drew or pointed their weapons at anyone (09 Board Review).

§ 87(2)(b) stated that she observed a black unmarked vehicle with its lights and sirens activated when she and § 87(2)(b) were on 114th Road about a block away from the house. § 87(2)(b) made a U-turn and parked in front of the house, at which point PO Lodico and three officers approached the vehicle and asked § 87(2)(b) to exit. § 87(2)(b) did not allege that officers drew or pointed their weapons at her or § 87(2)(b) (As such, a guns pointed allegation was not pleaded for § 87(2)(b)).

Neither § 87(2)(b) nor § 87(2)(b) witnessed this portion of the incident (10 Board Review). § 87(2)(b) did not provide a statement to the CCRB.

§ 87(2)(b) stated that when § 87(2)(b)'s vehicle pulled up, it made a U-turn and almost hit an officer's vehicle. Officers subsequently approached the vehicle. § 87(2)(b) said that officers did not draw or point their weapons. § 87(2)(b)'s statement was generally consistent with § 87(2)(b)'s account of the incident, except that he did not make any mention of officers pointing or drawing their weapons. He only stated that the officers approached the vehicle and spoke to the occupants inside.

PO Lodico stated that she was in her vehicle with PO Manzella and PO Kearon when she observed § 87(2)(b) and § 87(2)(b) pull up. PO Lodico had not seen § 87(2)(b) before, but recognized § 87(2)(b) and knew he lived at the house because she had personally seen him enter and exit the house, and he had listed the address as his home in complaints he had previously filed. PO Lodico, PO Manzella, and PO Kearon activated their lights to stop the car, which pulled up in front of the house. (No allegation was pleaded regarding the vehicle stop as it immediately preceded and was part of § 87(2)(b)'s arrest.) PO Lodico and PO Manzella approached the passenger's side of the vehicle; she did not know which officers approached the driver's side. PO Lodico did not draw her weapon and did not recall seeing anyone point a weapon.

Neither PO Manzella nor PO Kearon recalled whether they or any other officers took any action when § 87(2)(b)'s vehicle pulled up. Both PO Manzella and PO Kearon denied pointing their weapons and denied that any other officer did so.

PO Crescimanno noticed anti-crime officers approach the vehicle, but did not see any officer point their weapon, and denied doing so himself. Sgt. Sykora stated that no officers pointed their weapons,

and Sgt. Reilly and PO Levy did not think that any officers pointed their weapons. All of the officers denied pointing their own weapons.

§ 87(2)(g)

He alleged that officers pointed their weapons at him and § 87(2)(b) in his CCRB interview, but did not allege this in his previous phone statement. In addition, neither § 87(2)(b) nor any of the civilians who witnessed this portion of the incident alleged that this occurred. In fact, § 87(2)(b) an independent witness, denied that officers drew or pointed their weapons, corroborating the officers' statements.

§ 87(2)(g)

Allegation F – Discourtesy: Police Officer Paul Kearon spoke discourteously to § 87(2)(b)

Allegation G – Abuse of Authority: Police Officer Paul Kearon threatened § 87(2)(b) with the use of force.

Allegation H – Abuse of Authority: Police Officer Paul Kearon threatened to damage § 87(2)(b)'s property.

Allegation I – Discourtesy: Sergeant Michael Sykora spoke discourteously to § 87(2)(b)

In his phone statement, § 87(2)(b) said that PO Manzella told him to “Get the fuck out of the car,” (Board Review 09). (He did not allege this when asked about it in his sworn statement and it is therefore not pleaded.) He stated that his window was not rolled down but he could hear the officers. When asked if PO Manzella was the only officer who made that statement, § 87(2)(b) said that PO Manzella was the only officer he was paying attention to. He did not allege that any other officers used profanity towards him at that time or made any threats of force or property damage towards him. § 87(2)(b) also said that after he got out of the vehicle, Sgt. Sykora screamed at him and said that he was stealing electricity and power, but did not say that he cursed at him.

In his CCRB interview, § 87(2)(b) stated that after the officers surrounded the car, PO Kearon told him to get out of the car before they broke his windows, and that no other officer made any other threatening statements. § 87(2)(b) did not allege that any officer made any discourteous statements at that point in the incident until he was asked about his previous statement, in which he alleged that PO Manzella had made a discourteous statement towards him. § 87(2)(b) then said that PO Kearon said, “Get the fuck out the car before I break the window and drag you out the car.” After § 87(2)(b) stepped out of the vehicle and was placed in handcuffs, he asked why he was being arrested. Sgt. Sykora replied by saying, “You know what the fuck you did, you’re stealing.” § 87(2)(b) was still inside the car at this time.

§ 87(2)(b) stated that when an officer told § 87(2)(b) to get out of the car, she told him not to. She initially stated that an officer, who best matched PO Manzella’s description, then said, “If you don’t get out we’re going to drag you out.” However, § 87(2)(b) then changed her statement and said that an officer, who matched Sgt. Sykora’s description, stated, “If you don’t get out we’re going to drag your ass out the car.” § 87(2)(b) did not make this allegation; therefore, it is not pleaded.) Again, § 87(2)(b) told § 87(2)(b) not to get out of the car but he complied with the

officer's instructions and exited the vehicle. § 87(2)(b) did not allege that any other conversations took place at that time. Later in the incident, § 87(2)(b) called 911 and stated that she felt like something was wrong when the officer said "your ass." § 87(2)(b) did not allege that an officer threatened to damage the vehicle nor did she allege that any additional discourteous statements or threats of force were made towards § 87(2)(b).

§ 87(2)(b) and § 87(2)(b) were still inside the house at this point in the interaction. § 87(2)(b) was inside his car during this portion of the incident with the windows rolled up and could not hear the conversation between the officers, § 87(2)(b) and § 87(2)(b) stated that he was seated in the front passenger's seat of the car with the door open and the window down during this portion of the incident. He further stated that § 87(2)(b) rolled his window down when the officers' approached. He denied that the officers threatened to break the windows to § 87(2)(b) and did not hear any officer threaten to drag someone out of the car or use profanity towards § 87(2)(b). § 87(2)(b) stated that no officer used the word "fuck" or "fucking" at the scene.

As discussed above, PO Kearon did not remember whether he took any action with respect to the vehicle when he pulled up. PO Kearon denied saying, "Get the fuck out of the car before I break the window and drag you out the car," denied threatening to damage the vehicle or threatening to use force if § 87(2)(b) did not get out of the vehicle. PO Kearon denied that any officer made the statement, "You know what the fuck you did, you're stealing."

Sgt. Sykora stated that when § 87(2)(b)'s vehicle pulled up, which he said occurred after § 87(2)(b) exited the house, he was still talking with the Con Edison employees on the sidewalk and did not approach the vehicle. No officer said, "Get the fuck out of the car," and he did not hear an officer threaten to use force against § 87(2)(b). Sgt. Sykora denied saying, "You know what the fuck you did, you're stealing," "If you don't get out, we're going to drag your ass out of the car," or using any profanity at the scene. He denied approaching the situation until after § 87(2)(b) was in handcuffs.

PO Lodico said that she was dealing with § 87(2)(b) and did not know what was being said on the driver's side of the car. She did not hear if anyone said, "Get the fuck out of the car." PO Lodico did not recall if anyone said, "Get the fuck out of the car before I break the window," or if anyone threatened to grab § 87(2)(b) out of the car window. PO Lodico did not remember anyone say they would drag § 87(2)(b)'s "ass" out of the car. PO Lodico denied that anyone made the statement "You know what the fuck you did, you're stealing," in her presence.

PO Crescimanno did not hear anyone threaten § 87(2)(b) threaten to forcibly remove him from the car, and did not hear any of the alleged statements, though he noted that he could not hear the conversation between the officers and § 87(2)(b). PO Crescimanno denied that anyone made the statement "You know what the fuck you did, you're stealing," in his presence.

Sgt. Reilly was not aware of anyone making the alleged statements in his presence, did not hear any threats of physical force, and denied that anyone threatened to damage property. No officer used profanity in Sgt. Reilly's presence. PO Levy did not remember any officer make threats to physically remove § 87(2)(b) from the vehicle, did not remember anyone making the alleged statements, and did not remember anyone using profanity. PO Manzella denied that the alleged statements were

made by anyone, and said that no one used profanity, threatened to use force, or threatened to damage any property.

§ 87(2)(g)

Allegation J – Abuse of Authority: Sergeant Michael Sykora threatened to arrest § 87(2)(b)

Allegation L – Abuse of Authority: Police Officer Maryann Lodico entered and searched § 87(2)(b)
§ 87(2)(b) **in Queens.**

Allegation M – Abuse of Authority: Sergeant Michael Sykora entered and searched § 87(2)(b)
§ 87(2)(b) **in Queens.**

It is undisputed that no one responded to the knocks, statements, or attempts by officers and the Con Edison personnel to make contact with anyone inside the house upon their arrival.

§ 87(2)(b) stated that she was renting the home and that her name was on the lease. She also stated that initially she was supposed to be out of the house by January 31, 2017; however, a court order allowed her to stay until March 19, 2017. When she tried to show it to an officer, he said it was irrelevant and they were not interested. § 87(2)(b) stated that after § 87(2)(b) and § 87(2)(b) were placed in handcuffs, she argued with the officers and said that what they were doing was unnecessary. Sgt. Sykora and an unidentified officer told § 87(2)(b) that

she could go to jail with § 87(2)(b) and § 87(2)(b) too, if she wanted. (Since the unidentified officer made this statement in conjunction with the declaration made by his supervisor, this allegation was not pleaded against the unidentified officer.) § 87(2)(b) tried to enter the house and close the front door, which opens outwards, but PO Lodico and two officers pulled the door and tried to keep it open. The officers told § 87(2)(b) that they had to go inside the house, and § 87(2)(b) said that they could not enter the house without her and that she had to let them in. PO Lodico told § 87(2)(b) that she could not enter the house, and § 87(2)(b) said, “Ma’am, you don’t live here, so you can’t tell me what to do.” The officers asked where the boiler room or electricity controls were, and § 87(2)(b) said that she did not have to tell them anything, but they could look for them themselves. PO Lodico and the two male officers brushed past § 87(2)(b) into the house. The Con Edison personnel entered the house as well. § 87(2)(b) was generally consistent in her statements, except that she did not allege in her initial phone statements that she was threatened with arrest.

§ 87(2)(b) stated that PO Lodico and two other officers entered the house through the open door without asking anyone to enter. § 87(2)(b) did not mention any interactions between officers and § 87(2)(b) in her statement.

§ 87(2)(b) said that after § 87(2)(b) and § 87(2)(b) were placed in handcuffs, Sgt. Sykora said that the civilians could be arrested for interfering with the investigation and also said that if they did not let Con Edison get inside, they were preventing them from doing their job and he would place them in handcuffs and detain them. § 87(2)(b) said at some point that § 87(2)(b) said, “You can’t come in,” but did not specify whether she was referring to him and § 87(2)(b) or to the officers. Later, § 87(2)(b) and some officers had a conversation in the front yard and officers told her that Con Edison personnel needed to enter the house, to which § 87(2)(b) responded, “Yeah, come in.” § 87(2)(b) entered the house, he followed her, and believed that PO Manzella may have followed him. § 87(2)(b) said that § 87(2)(b) let the officers in with no problem. § 87(2)(b) and PO Lodico went downstairs, where he found that jumpers had been used to illegally tamper with the meters.

§ 87(2)(b) said that he was in his vehicle when officers entered, and said it appeared that § 87(2)(b) let them in because she opened the door from the outside. § 87(2)(b) stated that he could not hear what was being said near the house.

§ 87(2)(b), a supervisor of § 87(2)(b) and § 87(2)(b) stated that although every tampering situation is inherently dangerous, Con Edison employees cannot enter a location without permission, regardless of whether the occupants are suspected to be squatters (04 Board Review).

No other civilians who provided statements to the CCRB witnessed this portion of the incident.

PO Lodico initially stated that while officers were talking to § 87(2)(b) in front of his vehicle, § 87(2)(b) exited the house and PO Lodico explained to her that Con Edison needed to come in and read the meter, but wanted a police escort. PO Lodico later stated that the Con Edison personnel told a female that they needed to enter, then said that she was not sure whether it was a female or § 87(2)(b) and § 87(2)(b) but said that she believed the Con Edison personnel told someone who lived in the house that they needed to enter. PO Lodico was not sure if anyone told § 87(2)(b)

§ 87(2)(b) that the Con Edison personnel needed a police escort, or if § 87(2)(b) said anything that verbally consented to the entry. PO Lodico said that § 87(2)(b) let the Con Edison personnel enter, and she and PO Crescimanno entered with them. None of the civilians objected to PO Lodico entering. When asked if § 87(2)(b) did anything that implied consent, PO Lodico said that she opened the door, let them in, tied up the dogs so they would not get out, and showed them downstairs. PO Lodico did not recall if any civilian other than § 87(2)(b) was told that they could be arrested.

PO Crescimanno believed that one of the supervisors told § 87(2)(b) that the Con Edison personnel needed to take a look at the box inside and did not remember if § 87(2)(b) said anything in response, but said that she never “denied.” PO Crescimanno said that they asked for § 87(2)(b) s permission to enter the house, but did not know or remember whether § 87(2)(b) was told that Con Edison personnel needed to come in, or whether it was phrased as a question asking whether they could come in. PO Crescimanno did not hear § 87(2)(b) make any verbal acknowledgement that Con Edison could enter, and did not remember her making any gestures or doing anything physically that made him think she was allowing everyone to come in. § 87(2)(b) walked into the house and “let everyone in,” which she did by opening the door. PO Crescimanno later stated that he did not remember whether she had closed the door or whether it was already open. § 87(2)(b) did not protest the entry of Con Edison personnel or police officers.

During his initial narrative, Sgt. Sykora said that § 87(2)(b) gave Con Edison permission to go into the house, and PO Lodico and Crescimanno went into the house with Con Edison so they could shut off the power. Later in the interview, Sgt. Sykora said that he explained to § 87(2)(b) that the Con Edison personnel were present to shut the power off. § 87(2)(b) did not get excited or say anything to Sgt. Sykora, and just walked away and he went back into his vehicle. Sgt. Sykora did not warn § 87(2)(b) that she could be arrested if she did not let the Con Edison personnel do their jobs, and did not tell this to § 87(2)(b) or § 87(2)(b). Sgt. Sykora denied threatening to arrest anyone, and said that to his knowledge, § 87(2)(b) was not doing anything she could be arrested for. When asked how he knew that § 87(2)(b) gave Con Edison personnel permission to enter the house, he said because they entered with the two officers. Sgt. Sykora then said that PO Lodico told him that § 87(2)(b) said it was okay for Con Edison to come into the house and shut off the power. Sgt. Sykora later denied telling § 87(2)(b) that Con Edison personnel needed to enter the house or being present when she was informed of this, and said that she was not told that Con Edison personnel requested a police escort to go into the house. Sgt. Sykora assumed that Con Edison and the police officers needed the permission of someone present to enter, but did not know. Sgt. Sykora did not hear § 87(2)(b) verbally object to Con Edison personnel or officers entering, and did not physically try to prevent anyone from entering. Sgt. Sykora was in his car when Con Edison and officers entered the house, and could not see the door from where he was positioned.

Sgt. Reilly stated that once the three individuals were in handcuffs, “we” explained to everyone who was left that “they” had to go in with the Con Edison personnel to safeguard whatever Con Edison had to do with the electricity because it could cause a fire, though he clarified that he was not the person who explained that Con Edison had to go into the house. Sgt. Reilly said that PO Lodico may have explained this to § 87(2)(b) and did not recall whether she said anything in response or did anything that implied consent. Sgt. Reilly said that no one other than § 87(2)(b) was threatened with arrest.

PO Levy believed that the Con Edison personnel spoke to § 87(2)(b) about the power, and she said that they could come in and check on it. PO Levy said that PO Lodico went in for the Con Edison personnel's safety, though he did not remember hearing the Con Edison personnel ask an officer to come in with them for their safety. PO Levy did not remember anyone being threatened with arrest.

PO Manzella did not know if officers entered the house, but said that Con Edison personnel had no difficulty gaining entry to the house. PO Manzella did not recall if any civilians objected to officers or Con Edison personnel entering, or whether the Con Edison personnel requested a police escort. PO Kearon did not know whether Con Edison personnel or police officers entered the house. PO Manzella said that no civilians were threatened with arrest.

A Queens County Civil Court motion on § 87(2)(b), stated that in the matter of the US Bank against multiple respondents, including § 87(2)(b) as Jane Doe, the execution of the eviction warrant regarding § 87(2)(b) was stayed until § 87(2)(b) (03 Board Review).

A person is guilty of obstructing governmental administration when they intentionally obstructs, impairs, or perverts the administration of law or other governmental function, or prevents or attempts to prevent a public servant from performing an official function (08 Board Review). Public Service Law Section 47 states that except in a situation where an emergency may threaten the health or safety of a person, the surrounding area, or their distribution system, an agent may not enter locked premises without permission of a person lawfully in control of the premises (12 Board Review). Police officers may not enter a home without a warrant unless there are exigent circumstances, or unless consent is given (13 Board Review) (Payton v. New York, 355 U.S. 573 (1980)). When one provides consent for officers to enter a premises, one intentionally waives their constitutional right; submitting to the authority of a police officer does not constitute consent (14 and 15 Board Review) (Johnson v. United States, 333 U.S. 10 (1947)) (People v. Gorsline, 47 A.D.2d 273 (1975)). In determining whether consent is given freely and voluntarily, as opposed to yielding to overbearing official pressure, the following circumstances may be considered: the extent to which the person giving consent was restrained or in custody, their age and experience with law enforcement officers, and whether they were evasive or uncooperative with law enforcement authorities (16 Board Review) (People v. Gonzalez, 115 A.d.2d 73 (1986)).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [REDACTED]

[REDACTED]

[REDACTED]

Allegation K – Force: Police Officer Maryann Lodico used physical force against § 87(2)(b)

§ 87(2)(b) stated that after the vehicle with § 87(2)(b) left the scene, she walked towards the house. Male officers told § 87(2)(b) to wait, and as she climbed the steps to the front door, PO Lodico ran after her, grabbed her by her left arm, and pulled her. This caused § 87(2)(b) to trip down the steps, but she did not fall.

§ 87(2)(b) stated that no officer touched § 87(2)(b) prior to her re-entering the house. § 87(2)(b) stated that he was in his vehicle during this portion of the incident but was watching the interaction outside of the house and did not see an officer grab § 87(2)(b).

No other civilians who provided statements to the CCRB witnessed this portion of the incident.

PO Lodico said that at some point, § 87(2)(b) ran behind a sergeant, who she believed to be Sgt. Sykora, so PO Lodico grabbed her arm. PO Lodico said that she feared for the sergeant's safety because § 87(2)(b) was running towards him and behind him. § 87(2)(b) then walked towards the gate, and did not complain to PO Lodico about being grabbed. PO Lodico denied grabbing § 87(2)(b) as she re-entered the house.

Sgt. Sykora stated that he did not know of PO Lodico grabbing § 87(2)(b)'s arm as she was running towards him or Sgt. Reilly. He further stated that no one ever grabbed § 87(2)(b)'s arm to prevent her from going anywhere and he did not see PO Lodico grab § 87(2)(b)'s arm as she attempted to re-enter the house.

PO Crescimanno did not see PO Lodico or any officer grab § 87(2)(b) as she went back into the house, or at any point during the incident. Sgt. Reilly did not see any officer grab on to § 87(2)(b) and did not think she ever ran towards him. PO Levy did not remember any officer grabbing § 87(2)(b) as she went back towards the door. PO Manzella did not see PO Lodico grab § 87(2)(b)'s arm and pull her back as she tried to re-enter the house. PO Kearon said that PO Lodico did not grab onto § 87(2)(b)'s arm as she tried to go back into the house.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation due to the arrests and subsequent open criminal cases that resulted from this incident.
- § 87(2)(b) § 87(2)(c)
- § 87(2)(b) § 87(2)(c)
- On September 27, 2017, a FOIL request confirmed that no Notices of Claim had been filed regarding this incident (01 Board Review).

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first complaint with the CCRB (02 Board Review).
- § 87(2)(b)
- PO Lodico has been a member of the NYPD for 10 years and has had seven allegations from four cases pleaded against her; none were substantiated § 87(2)(g)

- Sgt. Sykora has been a member of the NYPD for 17 years and has been a subject of nine previous allegations in three cases. In case 200407307, question and/or stop, threat of force, refusal to provide name and/or shield number, and discourteous language allegations were substantiated, charges were recommended by the board, instructions were recommended by the NYPD, and the only penalty imposed was an instruction for the question and/or stop allegation. No other allegations were substantiated § 87(2)(g)
- PO Manzella has been a member of the NYPD for seven years § 87(4-b), § 87(2)(g)
§ 87(2)(g)
PO Manzella has not been a subject of any other allegations.
- PO Kearon has been a member of the NYPD for eight years and has 21 previous allegations pleaded against him in 11 cases. In case 201508895, stop, search and frisk allegations were substantiated and charges were recommended by the board, the NYPD recommended formalized training, and no discipline was imposed. § 87(4-b), § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
In case 201505421, stop and entry and search allegations were substantiated and formalized training was recommended by the board. There was no information on the NYPD disposition or penalty. No other allegations were substantiated § 87(2)(g)
§ 87(2)(g)

Allegations Not Pleaded

- **Discourtesy:** Both § 87(2)(b) and § 87(2)(b) alleged that officers made discourteous statements to § 87(2)(b) however, § 87(2)(b) did not allege that any officers used discourteous language towards her. § 87(2)(g)
- **Discourtesy:** In her phone statement, § 87(2)(b) stated that an officer used discourteous language while she was still inside the house, but no other civilian alleged this, and § 87(2)(b) did not provide a sworn statement to the investigation. § 87(2)(g)
- **Force:** § 87(2)(b) alleged that officers used force against § 87(2)(b) while placing her in handcuffs. As § 87(2)(b) did not allege this herself, § 87(2)(g)
- **Abuse of Authority:** § 87(2)(b) alleged that PO Lodico threatened to arrest her. As § 87(2)(b) did not provide a sworn statement to the investigation, § 87(2)(g)
- **Abuse of Authority:** Both § 87(2)(b) and § 87(2)(b) alleged that some of their belongings, in addition to § 87(2)(b)'s and § 87(2)(b)'s belongings, were missing when they went back to their house. An IAB spin-off was made regarding all of the property seizure allegations; § 87(2)(g)

Squad: 3

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date